

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY
NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

FILED BY CLERK

OCT -9 2008

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

In the Matter of the
Guardianship/Conservatorship of

ANGELINE SHARKOZY,

Deceased.

WILLIAM SHARKOZY,

Appellant,

v.

DONNA ALLISON,

Appellee.

2 CA-CV 2008-0001

DEPARTMENT B

MEMORANDUM DECISION

Not for Publication

Rule 28, Rules of
Civil Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF GILA COUNTY

Cause No. GC-0020060026

Honorable Peter J. Cahill, Judge

DISMISSED

William Sharkozy

Jackson White

By James L. Tanner

Payson
In Propria Persona

Mesa
Attorneys for Appellee

E S P I N O S A, Judge.

¶1 Although it is unclear from his opening brief, William Sharkozy apparently appeals from the trial court’s denial of his motions to reconsider its order transferring a certain “annuity” in his name to the estate of his late mother, Angeline Sharkozy.¹ Before her death in July 2007, Angeline was a protected person for whom appellee Donna Allison, a certified fiduciary, had been appointed guardian and conservator. We dismiss the appeal as untimely.

Facts and Procedural History

¶2 Following her husband’s death, Angeline had moved into William’s residence. After the trial court appointed Allison as guardian and conservator for Angeline in 2006, Allison placed Angeline instead in the home of her daughter, Carol Walker. In April 2007, Angeline was transferred to an assisted-living facility, where she remained until her death.

¶3 At a hearing in May 2007, the court found that two annuities in William’s name actually belonged to his mother and ordered the funds returned to the estate to pay the reasonable expenses of the guardianship and conservatorship. Between May and

¹The large number of repetitious motions filed in the trial court combined with the insufficiency of William’s brief make it difficult to identify the issue on which he seeks appeal. However, his notice of appeal purports to appeal “the October 24th. 2007 [sic] decision of [the trial court] regarding the Order Granting my Allianz Annuity to be taken away from myself and distributed to several dishonest people connected with this case.” On September 11, 2007, William filed a motion to “Overturn the wrongful decisions made to this Guardianship case since 8/30/06. . . .” And, on September 28, 2007, he filed a motion to “take the ‘Court Hold’ off my Allianz Annuity.” On October 24, 2007, the court denied both these motions, which the court viewed as motions to reconsider.

September 2007, William filed more than twenty motions, replies, and ex parte communications demanding the court reverse itself and return one of the annuities, the Allianz annuity, to him. On October 24, 2007, the trial court denied two of these motions to reconsider, and William filed this appeal.²

Discussion

¶4 The denial of a motion for reconsideration generally is not an appealable order. *In re Estate of Balcomb*, 114 Ariz. 519, 522, 562 P.2d 399, 402 (App. 1977). Therefore, William’s appeal can relate only to the original, underlying ruling. Rule 9(a), Ariz. R. Civ. App. P., provides an appellant no more than thirty days after entry of judgment to file a notice of appeal. Ariz. R. Civ. App. P. 9(a). Under Rule 9(b), that period is extended by the filing of certain enumerated post-judgment motions, and the time for appeal is then computed from the entry of the order granting or denying the motion. A motion to reconsider is not one of the motions included in Rule 9(b) and thus does not extend time to appeal.³ Ariz. R. Civ. App. P. 9(b); *Spradling v. Rural Fire Prot. Co.*, 23 Ariz. App. 549, 550, 534 P.2d 763, 764

²Although William appeals only the October 24 decision, the trial court had previously addressed his arguments when he had made them in other motions.

³We recognize the denial of a motion for reconsideration can in certain instances be appealable as a special order following judgment. *See* A.R.S. § 12-2101(C). To qualify as a “special order made after final judgment,” a motion must “raise different issues than those that would be raised by appealing the underlying judgment” and “must affect the underlying judgment, relate to its enforcement, or stay its execution.” *See In re Marriage of Dorman*, 198 Ariz. 298, ¶ 3, 9 P.3d 329, 331 (App. 2000). The trial court’s denial of William’s motion for reconsideration is not an appealable order because the motion did not raise any issues that would not be raisable by appealing the underlying judgment. *See In re Estate of Balcomb*, 114 Ariz. at 521, 562 P.2d at 401 (“[W]here a party merely asks the trial court to reconsider legal and evidentiary rulings[,] [a]ppealability cannot . . . be based on A.R.S. § 12-2101(C).”).

(App. 1975). The trial court ruled on the ownership of the Allianz annuity in May 2007, and William's notice of appeal was not filed until October 2007, well beyond the thirty days allowed. Therefore, this appeal is untimely and must be dismissed. *See James v. State*, 215 Ariz. 182, ¶ 11, 158 P.3d 905, 908 (App. 2007) (appellate court lacks authority to extend time for filing notice of appeal).

Attorney Fees

¶5 Allison requests attorney fees under Rule 25, Ariz. R. Civ. App. P. That rule provides that, when an appeal is frivolous or used only for delay or a party has been guilty of an "unreasonable infraction" of the rules of appellate procedure, we have discretion to award attorney fees. *Ariz. Dep't of Revenue v. Gen. Motors Acceptance Corp.*, 188 Ariz. 441, 446, 937 P.2d 363, 368 (App. 1996).

¶6 Pro se status does not absolve a litigant from the need to comply with the rules of appellate procedure. *See Homecraft Corp. v. Fimbres*, 119 Ariz. 299, 301, 580 P.2d 760, 762 (App. 1978) ("When one undertakes to represent himself he is entitled to no more consideration than if he had been represented by counsel [and] is held to the same familiarity with the required procedures. . . ."). Even though we dismiss this appeal as untimely, William's utter disregard for the rules has required us to search a voluminous record to discern what ruling he has attempted to appeal.⁴ Furthermore, as Allison points out, William's briefs are completely deficient, containing citations neither to the record nor to

⁴The record is unnecessarily voluminous due to the repetitive motions and other documents William filed in the trial court.

supporting authority. *See Jhagroo v. City of Phoenix*, 143 Ariz. 595, 598, 694 P.2d 1209, 1212 (App. 1984) (failure to cite record justifies imposition of Rule 25 sanctions). William makes no legal argument but instead resorts to accusations and attacks on the integrity of the appellee, the trial court, and members of his family. *See Ashton-Blair v. Merrill*, 187 Ariz. 315, 316, 928 P.2d 1244, 1245 (App. 1996) (sanctions justified where parties make accusations and assert irrelevant facts unsupported by record rather than legal argument).

¶7 The record supports Allison’s suggestion that William’s activities here and below have depleted the limited resources of his mother’s estate, which is now more than \$60,000 in debt. The estate has been forced to expend resources answering his motions below and responding to this appeal rather than preserving those funds for Angeline’s estate and the proper compensation of those appointed to act on her behalf. We therefore award Allison her reasonable attorney fees on appeal upon her compliance with Rule 21, Ariz. R. Civ. App. P.

PHILIP G. ESPINOSA, Judge

CONCURRING:

PETER J. ECKERSTROM, Presiding Judge

GARYE L. VÁSQUEZ, Judge